

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SOUTHERN DISTRICT OF NEW YORK

----- x
BAYER HEALTHCARE LLC, :
vs. :
Plaintiff, : 13-cv-2501 (JSR)
SERGEANT'S PET CARE PRODUCTS, INC., : ECF CASE
Defendant. :
----- x

RECEIVED
U.S. DISTRICT COURT, S.D.N.Y.
2013 MAY 17 P 8:11

REPLY DECLARATION OF DANIEL ENNIS, Ph.D, D.Sc.

Retention and Summary of Conclusions

1. I have been asked by counsel for Bayer to provide a reply declaration with respect to the results of tests conducted on behalf of Sergeant's Pet Care Products, Inc. ("Sergeant's"). I understand that Sergeant's has dismissed my criticisms of its studies. In this declaration I elaborate on several shortcomings of Sergeant's studies.

2. I conclude as follows:

Redacted

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3. I refer to my report of May 6 for my qualifications and experience.

Expert Opinions

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As noted in Introduction to Probability and Statistics by

Mendenhall and Beaver: “for many populations, the sampling distribution of (the mean) will be approximately normal for moderate sample sizes; an exception to this rule is the binomial experiment when either p or $(1-p)$ is small.” William Mendenhall & Robert J. Beaver, Introduction to Probability and Statistics 232 (9th ed. 1994).

Redacted

Redacted

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge and belief.

Executed on May 17, 2013 in Richmond, Virginia.

A handwritten signature in black ink that reads "Daniel M. Ennis". The signature is fluid and cursive, with "Daniel" on the first line and "M." and "Ennis" stacked on the second line.

Daniel M. Ennis

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: Plaintiff,

: vs.

: 13-cv-2501 (JSR)
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SERGEANT'S PET CARE PRODUCTS, INC.

: Defendant.

----- x

CERTIFICATE OF SERVICE

I, Christopher J. Hamilton, associated with Debevoise & Plimpton LLP, attorneys for plaintiff herein, certify:

I am over eighteen (18) years of age. On the 17th day of May, 2013, I served copies of Bayer's Reply Memorandum of Law in Support of Plaintiff's Motion for a Preliminary Injunction, the Reply Declaration of Wendell L. Davis, D.V.M., and the Reply Declaration of Daniel Ennis, Ph.D., D.Sc., by electronic mail to counsel for the other parties to this action at the following addresses:

- PGarrity@sheppardmullin.com
- mmcgrath@sheppardmullin.com
- saberg@sheppardmullin.com
- tbaker@sheppardmullin.com

I also caused copies of the aforementioned documents to be served by hand delivery on the following day to the following address:

Paul Garrity, Esq.
Sheppard Mullin Richter & Hampton LLP
30 Rockefeller Plaza
New York, NY 10112-0015

Pursuant to 28 U.S.C. § 1746, I certify under the penalty of perjury that the foregoing is true and correct.

Executed on May 17, 2013.



Christopher J. Hamilton

EXHIBIT 1

Redacted

EXHIBIT 2

Redacted

EXHIBIT 3

Redacted

EXHIBIT 4

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EXHIBIT 5

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